

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRUE HEALTH CHIROPRACTIC INC, et
al.,

Plaintiffs,

v.

MCKESSON CORPORATION, et al.,

Defendants.

Case No. [13-cv-02219-HSG](#)

**ORDER GRANTING
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Re: Dkt. No. 365

Pending before the Court is an administrative motion to file under seal several exhibits filed in support of Defendants' motion to decertify and motion for partial summary judgment. Dkt. No. 365. Having carefully considered the pending motion and supporting declaration, the Court **GRANTS** the motion.

I. LEGAL STANDARD

For motions to seal that comply with the local rules, courts generally apply a "compelling reasons" standard. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 677–78 (9th Cir. 2010). "This standard derives from the common law right 'to inspect and copy public records and documents, including judicial records and documents.'" *Id.* (quoting *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006)). "Unless a particular court record is one traditionally kept secret, a strong presumption in favor of access is the starting point." *Kamakana*, 447 F.3d at 1178 (quotation marks and citation omitted). To overcome this strong presumption, the moving party must "articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure, such as the public interest in understanding the judicial process." *Id.* at 1178–79 (citations, quotation marks, and alterations omitted). "In general, compelling reasons sufficient to outweigh the public's interest in disclosure

and justify sealing court records exist when such court files might have become a vehicle for improper purposes, such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quotation marks and citation omitted). The Court must:

balance the competing interests of the public and the party who seeks to keep certain judicial records secret. After considering these interests, if the Court decides to seal certain judicial records, it must base its decision on a compelling reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.

Id. (citations, brackets, and quotation marks omitted).

Civil Local Rule 79-5 supplements the “compelling reasons” standard. The party seeking to file under seal must submit “a request that establishes that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law The request must be narrowly tailored to seek sealing only of sealable material” Civil L.R. 79-5(b). Courts have found that “confidential business information” in the form of “license agreements, financial terms, details of confidential licensing negotiations, and business strategies” satisfies the “compelling reasons” standard. *See In re Qualcomm Litig.*, No. 3:17-cv-0108-GPC-MDD, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017) (observing that sealing such information “prevent[ed] competitors from gaining insight into the parties’ business model and strategy”); *Finisar Corp. v. Nistica, Inc.*, No. 13-cv-03345-BLF (JSC), 2015 WL 3988132, at *5 (N.D. Cal. June 30, 2015).

Finally, records attached to motions that are only “tangentially related to the merits of a case” are not subject to the strong presumption of access. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). Accordingly, parties moving to seal such records need only meet the lower “good cause” standard of Rule 26(c). *Id.* at 1097. The “good cause” standard requires a “particularized showing” that “specific prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210–11 (9th Cir. 2002) (citation and internal quotation marks omitted); *see also* Fed. R. Civ. P. 26(c).

II. DISCUSSION

Defendants' filings in connection with its motion to decertify the class are more than tangentially related to the underlying cause of action, so the Court applies the "compelling reasons" standard.¹


The Court finds Defendants have met their sealing burden. Defendants here seek to seal nonpublic spreadsheets containing personally identifiable information for Defendants' customers. Dkt. No. 365 at 2. As Defendants note in their Rule 79-5 declaration, this is "competitively sensitive information." Dkt. No. 365-1 at 2-3. Such customer information generally constitutes trade secrets, which the Ninth Circuit has held is sealable under the heightened "compelling reasons" standard. *See Kamakana*, 447 F.3d at 1179. The Court further finds that there is little public interest in the release of the spreadsheets detailing customer information, the particular contents of which have little to do with the merits of this case. On the other hand, the interest of Defendants in keeping potentially trade secret information confidential is high. The balance of interests thus tips in favor of keeping the information under seal. *See id.* (requiring a balancing of the interests).

III. CONCLUSION

The Court **GRANTS** Defendants' administrative sealing motion. Pursuant to Civil Local Rule 79-5(f)(1), documents filed under seal as to which the administrative motion is granted will remain under seal.

IT IS SO ORDERED.

Dated: 12/24/2020


HAYWOOD S. GILLIAM, JR.
United States District Judge

¹ As noted, Defendants also offered these exhibits in support of Defendants' concurrently filed motion for partial summary judgment, but the Court has deferred ruling on that motion.